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**REQUEST
FOR
CONTINUED EXAMINATION (RCE)
TRANSMITTAL**Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

| | |
|------------------------|-------------------------|
| Application Number | 09/921,851 |
| Filing Date | August 3, 2001 |
| First Named Inventor | Gary K. Michelson, M.D. |
| Group Art Unit | 3738 |
| Examiner Name | Bruce Snow |
| Attorney Docket Number | 101.0084-02000 |

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 C.F.R. 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 C.F.R. § 1.114**

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendments(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office Action is outstanding, any amendments filed after the final Office Action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply with Transmittal Form
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS) with Form PTO-1449 and 3 documents
- iv. ☐ Other _____

2. **Miscellaneous**11/19/2004 EABUBAK1 00000050 501066 09921851
01 FC:1801 790.00 DA
02 FC:1253 980.00 DA

- a. ☐ Suspension of action of the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other _____

3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 50-1066
- i. ☒ RCE fee in the amount of \$790.00 required under 37 C.F.R. § 1.17(e)
- ii. ☒ Extension of time fee in the amount of \$980.00 (37 C.F.R. §§ 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☐ Check in the amount of \$_____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

| | | | |
|-------------------|------------------|-----------------------------------|-------------------|
| Name (Print/Type) | Thomas H. Martin | Registration No. (Attorney/Agent) | 34,383 |
| Signature | | Date | November 16, 2004 |

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

| | | | |
|-----------|--|------|--|
| Name | | Date | |
| Signature | | Date | |



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson, M.D.

Serial No: 09/921,851

Filed: August 3, 2001

For: METHOD FOR FORMING A SPINAL
 IMPLANT SURFACE CONFIGURATION (as
 amended)

Confirmation No.: 8299

Group Art Unit: 3738

Examiner: Bruce Snow

Mail Stop RCE
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a Request for Continued Examination (RCE) and Amendment in response to the Final Office Action dated May 20, 2004 in the above-identified application.

- ☐ No additional fee is required.
- ☒ Applicant hereby requests a three-month extension of time to respond to the above office action.
- ☒ An Information Disclosure Statement with Form PTO-1449 and 3 documents is enclosed.

The fee has been calculated as shown below:

| | (Col. 1) CLAIMS REMAINING AFTER AMENDMENT | | (Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR | (Col. 3) PRESENT EXTRA* | LG/SM \$ ENTITY FEE | ADD'L FEE DUE |
|---|---|---|---|-------------------------------|--|------------------|
| TOTAL CLAIMS FEE | 53 | - | 54 ** | 0 | LG=\$18 SM=\$9 | \$ 0 |
| INDEPENDENT CLAIMS FEE | 4 | - | 4 *** | 0 | LG=\$84 SM=\$42 | \$ 0 |
| FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS | | | | | LARGE ENTITY FEE = \$280 SMALL ENTITY FEE = \$140 | \$ 0 |
| TOTAL | | | | | | \$ 0 |

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☐ The total amount of \$1,770.00 to cover the \$980 three-month extension fee and \$790 Request for Continued Examination (RCE) fee is to be charged to Deposit Account No. 50-1066.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1066. **A copy of this sheet is enclosed.**
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
 MARTIN & FERRARO, LLP

Date: November 16, 2004

By: 

Thomas H. Martin

Registration No. 34,383

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